



Billing Code: 4410-FB-P

DEPARTMENT OF JUSTICE

CPCLO Order No. 004-2012

Privacy Act of 1974; System of Records

AGENCY: United States Department of Justice

ACTION: Modified System of Records

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the United States Department of Justice (“Department”) proposes to modify the system of records entitled, “Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Requests and Administrative Appeals for the Department of Justice (DOJ-004),” 66 FR 29994 (June 4, 2001), and rename it “Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records (DOJ-004).” In addition to the name change, modifications to the notice include updates to and additions of several routine uses to reflect new uses, as well as to conform with Department-wide model routine use language; additions of the Security Classification and Disclosure to Consumer Reporting Agencies sections; additions throughout the notice of references to the system’s inclusion of records related to requests for the Office of Information Policy to serve as Ombudsman in disputes between federal agencies and individuals who submit requests under the Freedom of Information Act (FOIA); updates to the Record Access Procedures section to reflect the Office of Privacy and Civil Liberties’ role in addressing Privacy Act amendment appeals; and minor modifications throughout the notice to reflect the name change of the Office of Information and Privacy to the Office of Information Policy, and

removal of the reference to the Immigration and Naturalization Service (INS), as INS is no longer within the Department of Justice.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, please submit any comments by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESS: The public, Office of Management and Budget (OMB), and Congress are invited to submit any comments to the Department of Justice, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, Department of Justice, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1000, Washington, DC 20530-0001, or by facsimile to (202) 307-0693.

FOR FURTHER INFORMATION CONTACT: Carmen L. Mallon, Chief of Staff, Office of Information Policy, Department of Justice, Suite 11050, 1425 New York Avenue, NW., Washington DC 20530.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the modifications to this system of records.

March 2, 2012_
Date

Nancy C. Libin
Chief Privacy and Civil Liberties Officer
United States Department of Justice

JUSTICE/DOJ-004

SYSTEM NAME:

Freedom of Information Act, Privacy Act, and Mandatory Declassification Review Records.

SECURITY CLASSIFICATION:

Unclassified and classified information.

SYSTEM LOCATION:

United States Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC 20530-0001, and other Department of Justice offices throughout the country.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses all individuals who submit Freedom of Information Act (FOIA), Privacy Act, and Mandatory Declassification Review Requests and administrative appeals to the Department of Justice; individuals whose requests and/or records have been referred to the Department of Justice by other agencies; all individuals who submit requests to the Department of Justice Office of Information Policy (OIP) for its assistance as Ombudsman in disputes between the individuals and federal agencies concerning FOIA requests submitted by the individuals; and, in some instances, attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and/or the Department of Justice personnel assigned to handle such requests and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of records created or compiled in response to FOIA, Privacy Act, and Mandatory Declassification Review requests and administrative appeals, including: The original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal. This system also consists of records related to requests for OIP to serve as Ombudsman in disputes between federal agencies and individuals who submit FOIA requests, and all records related to the resolution of such disputes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system was established and is maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 to implement the provisions of 5 U.S.C. 552 and 5 U.S.C. 552a, and the applicable executive order(s) governing classified national security information.

PURPOSE(S):

This system is maintained for the purpose of processing access requests and administrative appeals under the FOIA, access and amendment requests and administrative appeals under the Privacy Act, and requests and administrative appeals for mandatory declassification review under the applicable executive order(s) governing classified national security information; for the purpose of participating in litigation regarding agency action on such requests and appeals; for the purpose of responding to requests for OIP to serve as Ombudsman in disputes between federal agencies and individuals who submit requests under the FOIA and resolving such disputes; and for the

purpose of assisting the Department of Justice in carrying out any other responsibilities under the FOIA, the Privacy Act, and applicable executive orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) To a federal, state, local, or foreign agency or entity for the purpose of consulting with that agency or entity to enable the Department of Justice to make a determination as to the propriety of access to or correction of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

(b) To a federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

(c) To a submitter or subject of a record or information in order to obtain assistance to the Department in making a determination as to access or amendment.

(d) To the National Archives and Records Administration, Information Security Oversight Office, Interagency Security Classification Appeals Panel, for the purpose of adjudicating an appeal from a Department of Justice denial of a request for mandatory declassification review of records, made under the applicable executive order(s) governing classification.

(e) To appropriate agencies, for the purpose of resolving a Freedom of Information Act Ombudsman inquiry matter.

(f) To the National Archives and Records Administration, Office of Government Information Services, in connection with the offering of mediation services by that office pursuant to 5 U.S.C. 552(h).

(g) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(h) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(i) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(j) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(k) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of

an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

(l) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(m) To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(n) To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(o) To federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(p) To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other

systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(q) To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on paper and/or in electronic form. Records that contain national security information and are classified are stored in accordance with applicable executive orders, statutes, and agency implementing regulations.

RETRIEVABILITY:

Records are retrieved by the name of the requester or appellant; the number assigned to the request or appeal; and in some instances the name of the attorney representing the requester or appellant, the name of an individual who is the subject of such a request or appeal, and/or the name or other identifier of Department of Justice personnel assigned to handle such requests or appeals.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules, and policies, including the Department's automated systems security and access policies. Classified information is appropriately stored in safes and in accordance with other applicable requirements. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restrict access. Access is limited to those officers and employees of the agency who have an official need for access in order to perform their duties.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Staff, Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001.

NOTIFICATION PROCEDURE:

Same as Record Access Procedures.

RECORD ACCESS PROCEDURES:

Records concerning initial requests under the FOIA, the Privacy Act, and the applicable executive order(s) governing classified national security information are maintained by the individual Department of Justice component to which the initial request was addressed or directed. Inquiries regarding these records should be addressed to the particular Department of Justice component maintaining the records.

Records concerning administrative appeals for access requests under the FOIA; records concerning administrative appeals for access requests and accountings of disclosure requests under the Privacy Act; records concerning administrative appeals for access requests under the applicable executive order(s) governing classified national security information, with the exception of those made to the United States Parole Commission; and records concerning disputes between federal agencies and individuals who submit FOIA requests in which OIP serves as Ombudsman, are maintained by OIP. Inquiries regarding these records should be addressed to the Office of Information Policy, United States Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001. Inquiries regarding administrative appeals made to the United States Parole Commission should be addressed to the United States Parole Commission, United States Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001.

Records concerning administrative appeals for amendment requests under the Privacy Act should be addressed to the Office of Privacy and Civil Liberties, United States Department of Justice, 1331 Pennsylvania Ave., NW., Suite 1000, National Place Building, Washington, DC 20350-0001.

All requests for access must be in writing and should be addressed to the System Manager named above. The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from access provisions as described in the section entitled "Exemptions Claimed for the System." An individual who is the subject of a

record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001, or on the Department of Justice Web site at www.usdoj.gov/04foia/att_d.htm.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information maintained in the system should direct their requests to the appropriate office indicated in the “Record Access Procedures” section, above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Some information may be exempt from contesting record procedures as described in the section entitled “Exemptions Claimed for the System.” An individual who is the subject of a record in this system may seek amendment of those records that are not exempt. A determination of whether a record is exempt from amendment will be made after a request is received.

RECORD SOURCE CATEGORIES:

Those individuals who submit initial requests and administrative appeals pursuant to the FOIA, the Privacy Act, or the applicable executive order(s) governing classified national security information; the agency records searched in the process of responding to such requests and appeals; Department of Justice personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the Department of

Justice requests concerning Department of Justice records, or that have consulted with the Department of Justice regarding the handling of particular requests; individuals and agencies who are involved in disputes concerning FOIA requests where OIP is serving as Ombudsman to resolve such disputes; and submitters or subjects of records or information that have provided assistance to the Department of Justice in making access or amendment determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e), and have been published in the Federal Register.

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